

As explained in Section 480.101(b)(3), hotel operators incur tax on room rentals to entities that would otherwise be exempt from sales tax (i.e., entities such as exclusively charitable, religious, or educational groups, or governmental bodies that possess Illinois exemption identification numbers). (This is a GIL).

May 24, 2000

Dear Xxxxx:

This letter is in response to your letter dated March 29, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Internet at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

We are a municipal water district, and are tax exempt in New York State. Representatives of our district were in Illinois in June 1999, and they paid Illinois tax.

Is it possible for us to receive a refund of the Illinois tax? Please see attached documentation of taxes that were paid, totaling \$325.06. Please send any necessary forms to us.

We have enclosed a copy of 86 Ill. Adm. Code 480.101, which explains the nature, rate and scope of the Hotel Operators' Occupation Tax Act. As explained in Section 480.101(b)(3), hotel operators incur this tax on room rentals to entities that would otherwise be exempt from sales tax (i.e., entities such as exclusively charitable, religious, or educational groups, or governmental bodies that possess Illinois exemption identification numbers).

It is important to remember in connection with this tax that this is a tax imposed upon hotel operators and not upon hotel guests. The Hotel Operators' Occupation Tax Act allows hotel operators to collect an amount from their customers that represents reimbursement for the hotel operators' tax liability. Consequently, there is no tax imposed upon guests from which they can be exempted. The fact that guests may represent entities that hold exemption identification numbers issued by the Department does not exempt them from reimbursement.

Automobiles leased under terms of one year or less are not subject to Use Tax but rather are subject to the Automobile Renting Occupation and Use Tax. 35 ILCS 155/1 et seq. This tax is imposed at the rate of 5% of the gross receipts from such business. Enclosed are the regulations describing the tax. (See 86 Ill. Adm. Code 180.101 et seq.)

Pursuant to subpart (b) of 86 Ill. Adm. Code 180.145 concerning the Automobile Renting Occupation and Use Tax, subpart (d)(2) of the enclosed copy of 86 Ill. Adm. Code 130.2005

concerning tax-exempt organizations is incorporated into the Automobile Renting Occupation and Use Tax regulations. This subpart provides that persons who rent automobiles to tax-exempt organizations under terms of one year or less can be exempt from Automobile Renting Occupation and Use Tax. Tax-exempt organizations may include government agencies, municipalities, state schools and charities.

Further, Section 3 of the Automobile Renting Occupation and Use Tax Act, 35 ILCS 155/3, states, in part, as follows:

“A tax is imposed upon persons engaged in this State in the business of renting automobiles in Illinois at the rate of 5% of the gross receipts received from such business. The tax herein imposed does not apply to the renting of automobiles to any governmental body, nor to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, nor to any not for profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older.”

Therefore, as a governmental body, your organization would not be subject to the Automobile Renting Occupation and Use Tax Act, so long as it provides the lessor with the tax exemption identification number issued by the Department. In order for the rentals to be exempt from tax, the rental agreement must contain the name of the tax-exempt organization as the name of the renter and the exemption number of the tax-exempt organization. If the agreement contains the name of an individual, the exemption will not apply even though that individual may be conducting the exempt organization's business. If you did not possess an exemption identification number at the time of the rental, tax was properly due.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

MAJ:msk  
Enc.